

REMARKS/ARGUMENTS

Claims 1-5 are present in this application. By this Amendment, the Abstract of the Disclosure, the specification and claims 1 and 2 have been amended. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

The Abstract has been amended herein to delete the use of legal phraseology.

Claims 2 and 3 were rejected under 35 U.S.C. §112, second paragraph. Claim 2 has been amended herein to clarify that the carry-in conveyor is arranged in parallel to both a specimen container rack which is attached to the carry-in elevator and a rectangular parallelepiped specimen container bucket Similar amendments have been made with regard to the rack, carry-out elevator and the container bucket in the container removing section. Applicant respectfully submits that claim 2 now more clearly satisfies the requirements of 35 U.S.C. §112, second paragraph. Withdrawal of the rejection is requested.

Claims 1, 2, 4 and 5 were rejected under 35 U.S.C. §103(a) over Japanese Patent Publication 2000-84436 to Takeda in view of U.S. Patent No. 5,523,056 to Miller, U.S. Patent No. 5,419,871 to Muszak et al., and U.S. Patent No. 6,589,789 to Hubert et al. This rejection is respectfully traversed.

The Office Action contends that each of the features defined in independent claim 1 is disclosed in the noted collection of references and that it would have been obvious to combine the respective teachings into the specimen centrifuge apparatus of the invention. Even assuming the Office Action has satisfied its burden of establishing a *prima facie* case of obviousness (which Applicant does not as discussed in more detail below), Applicant respectfully submits that the four cited reference taken singly or in combination fall short of the claimed invention.

Claim 1 defines, among other things, a carry-in elevator that vertically conveys pre-processed specimen containers to a container delivering section of one of the centrifuge units. The apparatus additionally includes a carry-out elevator that vertically conveys the specimen containers to a container receiving section of the carry-out conveyor. The Office Action references an elevator assembly in Muszak for delivering sample containers or slides to incubator rotors disposed at different vertical levels. In this context, however, nowhere does Muszak disclose both a carry-in elevator and a carry-out elevator as claimed. The Office Action in fact does not reference a single teaching in the Muszak patent that defines both elevators.

In a similar context, claim 1 further defines a loading arm attached to each of the specimen centrifuge units and an unloading arm attached to each of the specimen centrifuge units. In this context, the Office Action references a centrifuge loading and unloading device disclosed in the Hubert patent. The Hubert patent, however, lacks a loading or unloading arm that is attached to each of multiple specimen centrifuge units. Additionally, Hubert lacks both the claimed loading arm and unloading arm. At best, Hubert merely discloses a robot arm that effects loading and unloading of sample tubes or racks of tubes. The Office Action again appears to overlook the separately defined components, including the loading arm and the unloading arm of claim 1.

Still further, claim 1 has been amended to recite that the carry-in elevator is provided at a side of the centrifuge units and that the carry-out elevator is also provided at the side of the centrifuge units. This structure is also lacking in the applied references.

The additional cited references do not correct these deficiencies. That is, none of Takeda, Miller, Muszak and Hubert discloses or remotely suggests structure utilizing both a carry-in elevator and a carry-out elevator or both a loading arm attached to multiple specimen centrifuge

units and an unloading arm attached to each of the specimen centrifuge units. As such, the rejection falls short of the claimed subject matter, and for at least this reason, Applicant respectfully submits that the rejection is misplaced.

Moreover, it is well settled that “obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under § 103, teachings of references can be combined only if there is some suggestion or incentive to do so.” *ACS Hosp. Sys., Inc. v. Montefiore Hosp.*, 221 USPQ 929, 932, 933 (Fed. Cir. 1984). In this context, the Office Action contends that it would have been obvious to utilize stacked centrifuge units in view of the Miller patent and concludes with such stacked units that it would have been obvious to utilize an elevator assembly in view of the Muszak patent. The Office Action further contends that it would have been further obvious to utilize the robot arm of Hubert with the Muszak elevator assembly. As noted, however, without some suggestion or incentive to combine the teachings of the references, Applicant respectfully submits that the combination is improper, and the Office Action fails to set forth a *prima facie* case of obviousness.

The structure in the Muszak patent processes slide test elements in an incubator. The slide test elements E, E' are loaded in and unloaded from the incubators by a pusher. The Miller structure utilizes similar slide elements. Applicant respectfully submits that those of ordinary skill in the art would not have been motivated to utilize a robot arm with an elevator assembly for test slides as such an arm would have difficulty grasping and maneuvering the slides. Indeed, Applicant submits that those of ordinary skill in the art would not look to the Miller and Muszak patents to modify the test slide pushing mechanism as such a modification would be detrimental to use and operation of the disclosed structures.

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For these reasons also, Applicant submits that the rejection is misplaced.

With respect to the dependent claims, Applicant submits that these claims are allowable at least by virtue of their dependency on an allowable independent claim.

Reconsideration and withdrawal of the rejection are respectfully requested.

Claim 3 was rejected under 35 U.S.C. §103(a) over Takeda in view of Miller, Muszak, Hubert and U.S. Patent No. 5,199,937 to Wada et al. The Wada patent, however, does not correct the deficiencies noted above with regard to the Takeda, Miller, Muszak and Hubert combination, and Applicant thus submits that claim 3 is allowable at least by virtue of its dependency on an allowable independent claim. Withdrawal of the rejection is requested.

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims are patentable over the art of record and that the application is in condition for allowance. Should the Examiner believe that anything further is desirable in order to place the application in condition for allowance, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

Prompt passage to issuance is earnestly solicited.

Respectfully submitted,

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